

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.353 OF 2015

Vishwanath Haribhau Joshi ... **Applicant**

V/s.

Suresh Changu Madhavi and anr. ... **Respondents**

Ms.Heena Suvarnakar i/b. Mr.K.S. Patil for the applicant.

Ms.Anamika Malhotra, APP for the respondent/State.

CORAM : A.M.BADAR J.

DATED : 14th JUNE 2018.

P.C. :

1. This is an application for leave to appeal for challenging the judgment and order of acquittal of respondent no.1 of offences punishable under Section 138 of Negotiable Instruments Act, 1881.

2. Heard the learned Advocate appearing for the applicant/original complainant. None appears for respondent no.1. The learned Additional Public Prosecutor appears for respondent no.2-State.

3. Subject complaint is in respect of dishonour of the cheque amounting to Rs.1,00,000/- given by respondent no.1 to the complainant for discharge of legally recoverable debt. The acquittal is on the assumption that the complainant used to work as construction

labour and he has not filed any documentary evidence to show that he was having the principal amount which he claims to have advanced as a hand loan to respondent no.1.

4. During the pendency of the complaint, respondent no.1/accused had moved an application Exh.42 stating that he accepted his liability of Rs.1,00,000/- as per the cheque issued by him and he would pay the sum to the complaint.

5. Considering reasoning given in the impugned judgment and order of acquittal, so also the evidence adduced on record, the case of grant of leave is made out, therefore, the order;

:: ORDER ::

- (i) The leave as prayed for is granted.
- (ii) Admit. The applicant to effect necessary amendment in the memo of application for leave to appeal. Then same to be considered as memo of appeal.
- (iii) Notice to respondents. The learned Additional Public Prosecutor waives notice for respondent no2.-State.
- (iv) Call for record and proceedings.
- (v) In lieu of action under Section 390 of Cr. P.C. the respondent no.1 to execute P.R. Bond of Rs.15,000/- before the Trial Court.

(A.M.BADAR J.)